

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 183805

KIM LAMONT POINTER,

LC No. 94-1919-FC

ON REHEARING

Defendant-Appellant.

Before: Fitzgerald, P.J., and O'Connell and T.L. Ludington,* JJ.

PER CURIAM.

We granted rehearing in this matter to address solely an issue that was raised by appellant in his brief on appeal but that was inadvertently omitted from our prior opinion in this matter.

Defendant argues that his twenty-three to forty year sentence for second-degree murder is disproportionate. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). Defendant's sentence is within the minimum recommended sentencing guidelines' range and is therefore presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1993); *People v Cotton*, 209 Mich App 82, 85; 530 NW2d 495 (1995). The record reveals that at seventeen years of age, defendant stabbed a man several times, inflicting serious injuries. In the present case, defendant deliberately shot the victim, who was a stranger to him, at least seven times at close range without being threatened or challenged by the victim. We find no abuse of discretion in the sentence imposed as it is proportionate to the circumstances surrounding the offense and the offender.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Peter D. O'Connell

/s/ Thomas L. Ludington

* Circuit judge, sitting on the Court of Appeals by assignment.